



PENNSYLVANIA STATE POLICE
DEPARTMENT HEADQUARTERS
1800 ELMERTON AVENUE
HARRISBURG, PENNSYLVANIA 17110

Mailing Date: May 16, 2019

Anna P
MuckRock News
DEPT MR71515
411A Highland Ave
Somerville, Massachusetts 02144-2516

PSP/RTKL Request N° 2019-0376

Dear Ms. P:

On April 9, 2019, the Pennsylvania State Police (PSP) received your request for information pursuant to Pennsylvania's Right-to-Know Law (RTKL), 65 P. S. §§ 67.101 – 67.3104, wherein you state:

Pursuant to the Pennsylvania Right to Know Law, I hereby request the following records:

Any documents and files relating to the homicide investigation of:
Terrence Bowers, April 26, 2970.
Chester County, Pennsylvania.

Including, but not limited to: (redacted if necessary)
Incident report and homicide report.
Crime scene information
Witness statements and interviews
Polygraph reports
Autopsy and any other medical reports
Investigation reports
Evidence information including any photos
Any developments in the case since 1970

A copy of your request is enclosed. By letter dated April 16, 2019, you were notified in accordance with RTKL section 67.902(b) that PSP required an additional thirty days to prepare this final response to your request.

Your request is denied as it seeks non-public records. The RTKL defines a "public record" as "[a] record . . . of a Commonwealth or local agency that: (1) is not exempt

under section 708; (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or (3) is not protected by a privilege.” 65 P. S. § 67.102.

Following the first limitation on the definition of “public record,” PSP Homicide Investigation Report No. J3-5827 details a PSP investigation into a complaint of criminal activity. Thus, the report, and each of its components, which includes: crime scene information, witness statements and interviews, polygraph reports, autopsy and any other medical reports, investigation reports, evidence information including any photos, and any developments in the case since 1970, are records of an agency relating to or resulting in a criminal investigation,” which are exempt from public disclosure under RTKL section 67.708(b)(16). Furthermore:

- The report contains “[c]omplaints of potential criminal conduct other than a private criminal complaint[,]” and, thus, is exempt from public disclosure under RTKL section 67.708(b)(16)(i).
- Because it reflects the findings and conclusions, as well as the actions, observations and notes of investigating troopers, the reports’ components constitute “[i]nvestigative materials, notes, correspondence, . . . and reports,” all of which are exempt from public disclosure under RTKL section 67.708(b)(16)(ii).
- In its entirety, as well as in its components, the report is “a record that, if disclosed, would . . . [r]eveal the institution, progress or result of a criminal investigation,” and, therefore, exempt from public disclosure under RTKL section 67.708(b)(16)(vi)(A).
- The report also contains personal identification information, including residential addresses and the telephone numbers of witnesses, all of which are exempt from public disclosure under RTKL section 67.708(b)(6)(i)(A).
- The report “[i]ncludes . . . victim information,” (e.g., the victim’s full name, birth date, residential address and telephone number) and, thus, is exempt from public disclosure under RTKL section 67.708(b)(16)(v).
- Yet, none of the reports’ components comprise original records of entry, a chronology of arrests, the identification of arrested individuals, the specification of criminal charges or any other “information contained in a police blotter as defined in 18 Pa.C.S. § 9102.” *Pa. State Police v. Office of Open Records*, 5 A.3d 473, 478 n.4 (Pa. Commw. Ct. 2010) (en banc).

A supporting verification accompanies this letter.

Following the second limitation, disclosing the report or its components to you would violate Pennsylvania's *Criminal History Record Information Act* (CHRIA), 18 Pa. C. S. §§ 9101-9183, which prohibits criminal justice agencies from disseminating investigative information, except to other criminal justice agencies. 18 Pa. C. S. § 9106(c)(4). CHRIA defines "investigative information" as "[i]nformation assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing." 18 Pa. C. S. § 9102. Therefore, PSP is barred by CHRIA from providing you with access to the records you have requested. See *McGarvey v. Pa. State Police*, OOR Docket N° AP 2009-0522 (Glinn) (CHRIA section 9106 protects criminal investigation report, in its entirety, from public disclosure).

In addition to the exemptions already stated, the responsive record is exempt from public disclosure based on the following:

- As containing a record of an individual's medical status, results of tests, or related information that would disclose individually identifiable health information pursuant to RTKL section 67.708(b)(5).
- As a record containing autopsy record information pursuant to RTKL section 67.708(b)(20).
- As a record containing DNA information pursuant to RTKL section §67.708(b)(19).
- As a record identifying the name, home address or date of birth of a child 17 years of age or younger pursuant to RTKL section 708(30).

To the extent that your request seeks or may be construed to seek records involving covert law enforcement investigations, including intelligence gathering and analysis, PSP can neither confirm, nor deny the existence of such records without risk of compromising investigations and imperiling individuals. UNDER NO CIRCUMSTANCES, therefore, should this response to your request be interpreted as indicating otherwise.

In closing, you have a right to appeal this response by submitting an appeal form in writing to the Office of Open Records (OOR), 333 Market Street, 16th Floor, Harrisburg, Pennsylvania 17126-0333. The appeal form may be obtained in the forms section on the OOR website, <http://openrecords.state.pa.us>. Should you choose to file an appeal, you must do so within 15 business days of the mailing date of this response and send to the OOR:

- 1) this response;
- 2) your request; and

- 3) the reason why you think the agency is wrong in its reasons for withholding information (a statement that addresses any ground stated by the agency for the denial). If the agency gave several reasons why the record is not public, state which ones you think were wrong.

Sincerely,



Kim Grant
Deputy Agency Open Records Officer
Pennsylvania State Police
Bureau of Records & Identification
Right-to-Know Law/Subpoena Section
1800 Elmerton Avenue
Harrisburg, Pennsylvania 17110
RA-psprighttoknow@pa.gov
1.877.785.7771 (Main) | 717.525.5795 (Fax)

Enclosures: RTK Request, Tracking N° 2019-0376
Grant Verification

PENNSYLVANIA STATE POLICE
DEPARTMENT HEADQUARTERS

VERIFICATION OF
KIM GRANT
DEPUTY AGENCY OPEN RECORDS OFFICER

I, Kim Grant, Deputy Agency Open Records Officer of the Pennsylvania State Police (variously, PSP or Department), am authorized to prepare this verification in response to PSP/RTKL Request N° 2019-0376. Accordingly, on this 16th day of May, 2019, I verify the following facts to be true and correct, to the best of my knowledge or information and belief:

1. I am familiar with PSP/RTKL Request N° 2019-0376, which is attached to this verification.
2. Utilizing the information contained in the request, I searched all Department databases to which I have access for evidence of any PSP records that may respond to the request.
3. As a result of my searches, I identified and retrieved the following responsive PSP record: PSP Homicide Investigation Report No. J3-5827.
4. I personally examined this incident report and found it to be manifestly related to criminal investigation. PSP Homicide Investigation Report J3-5827, and its components, which include includes: crime scene information, witness statements and interviews, polygraph reports, autopsy and any other medical reports, investigation reports, evidence information including any photos, and any developments in the case since 1970, is a multiple page record assembled by Troopers on or after 04/26/1970, as the result of an investigation into a criminal incident or an allegation of criminal wrongdoing. Furthermore:
 - a. The report contains “[i]nformation assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing,” 18 Pa.C.S. § 9102, and, thus, is exempt

from public disclosure under RTKL section 67.708(b)(16)(i).

- b. The report's component records reflect the findings and conclusions, as well as the actions, observations and notes of investigating troopers, thus constituting "*investigative materials, notes, correspondence, . . . and reports,*" all of which are exempt from public disclosure under RTKL section 67.708(b)(16)(ii).
 - c. Based on its content, the report is clearly "*a record that, if disclosed, would reveal the institution, progress or result of a criminal investigation,*" and, therefore, exempt from public disclosure under RTKL section 67.708(b)(16)(vi)(A).
 - d. The report also contains personal identification information, including residential addresses and the telephone numbers of witnesses all of which are exempt from public disclosure under RTKL section 67.708(b)(6)(i)(A).
 - e. The report includes "victim information," (e.g., the victim's full name, birth date, residential address and telephone number) and, thus, is exempt from public disclosure under RTKL section 67.708(b)(16)(v).
 - f. Yet, none of the report's components comprises original records of entry, a chronology of arrests, the identification of arrested individuals, the specification of criminal charges or any other "*information contained in a police blotter as defined in 18 Pa.C.S. § 9102.*"
5. Furthermore, disclosing the report or its components to the requestor would violate Pennsylvania's Criminal History Record Information Act (CHRIA), 18 Pa. C. S. sections 9101-9183, which prohibits criminal justice agencies from disseminating investigative information, except to other criminal justice agencies.

6. In addition to the exemptions already stated, the responsive record is exempt from public disclosure based on the following:

- As containing a record of an individual's medical status; including results of tests, or related information that would disclose individually identifiable health information pursuant to RTKL section 67.708(b)(5).
- As a record containing autopsy record information pursuant to RTKL section 67.708(b)(20).
- As a record containing DNA information pursuant to RTKL section §67.708(b)(19).
- As a record identifying the name, home address or date of birth of a child 17 years of age or younger pursuant to RTKL section 708(30).

7. Accordingly, I withheld this record from public disclosure .

I understand that false statements made in this verification are subject to penalties of 18 Pa. C. S. § 4904, relating to unsworn falsification to authorities.



Kim Grant
Deputy Agency Open Records Officer
Pennsylvania State Police

2019-0376
4-16-19

Ott, Cynthia L

RECEIVED
RIGHT-TO-KNOW LAW OFFICE
SUBPOENA UNIT

From: 71515-37834014@requests.muckrock.com
Sent: Monday, April 8, 2019 5:56 PM
To: SP, PSP RIGHT TO KNOW
Subject: [External] Pennsylvania Right to Know Act Request: Terrence Bowers (Pennsylvania State Police)
Attachments: PA_Right_to_Know_Request_Form.pdf

2019 APR -9 A 6:42

ATTENTION: This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to CWOPA_SPAM@pa.gov.

Pennsylvania State Police
RTK Office
1800 Elmerton Avenue
Harrisburg, PA 17110

April 8, 2019

To Whom It May Concern:

Pursuant to the Pennsylvania Right to Know Act, I hereby request the following records:

Any documents and files relating to the homicide investigation of:
Terrence Bowers, April 26, 1970.
Chester County, Pennsylvania.

Including, but not limited to: (redacted if necessary)
Incident report and homicide report.
Crime scene information
witness statements and interviews
polygraph reports
Autopsy and any other medical reports
Investigation reports
Evidence information including any photos
Any developments in the case since 1970

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 5 business days, as the statute requires.

Sincerely,

anna p

Filed via MuckRock.com

E-mail (Preferred): 71515-37834014@requests.muckrock.com

Upload documents directly:

<https://www.muckrock.comhttps://accounts.muckrock.com/accounts/login/?next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Femail%3DRA->

[psprighttoknow%2540pa.gov%26next%3D%252Faccounts%252Fagency_login%252Fpennsylvania-state-police-435%252Fterrence-bowers-pennsylvania-state-police-](https://www.muckrock.comhttps://accounts.muckrock.com/accounts/login/?next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Femail%3DRA-psprighttoknow%2540pa.gov%26next%3D%252Faccounts%252Fagency_login%252Fpennsylvania-state-police-435%252Fterrence-bowers-pennsylvania-state-police-71515%252F&url_auth_token=AAAboNxYal87tdHtot7MozjfZe0%3A1hDcFZ%3AibFW3oDq8UTikGQ-00UTN7rc8V4#agency-reply)

[71515%252F&url_auth_token=AAAboNxYal87tdHtot7MozjfZe0%3A1hDcFZ%3AibFW3oDq8UTikGQ-](https://www.muckrock.comhttps://accounts.muckrock.com/accounts/login/?next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Femail%3DRA-psprighttoknow%2540pa.gov%26next%3D%252Faccounts%252Fagency_login%252Fpennsylvania-state-police-435%252Fterrence-bowers-pennsylvania-state-police-71515%252F&url_auth_token=AAAboNxYal87tdHtot7MozjfZe0%3A1hDcFZ%3AibFW3oDq8UTikGQ-00UTN7rc8V4#agency-reply)

[00UTN7rc8V4#agency-reply](https://www.muckrock.comhttps://accounts.muckrock.com/accounts/login/?next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Femail%3DRA-psprighttoknow%2540pa.gov%26next%3D%252Faccounts%252Fagency_login%252Fpennsylvania-state-police-435%252Fterrence-bowers-pennsylvania-state-police-71515%252F&url_auth_token=AAAboNxYal87tdHtot7MozjfZe0%3A1hDcFZ%3AibFW3oDq8UTikGQ-00UTN7rc8V4#agency-reply)

Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.

For mailed responses, please address (see note):

MuckRock News

DEPT MR 71515

411A Highland Ave

Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.



RECEIVED
RIGHT-TO-KNOW LAW OFFICE
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pennsylvania
OFFICE OF OPEN RECORDS

RECEIVED
RIGHT-TO-KNOW LAW OFFICE
SUBPOENA UNIT

2019 APR -9 A 6:42

STANDARD RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED: 2019-04-08

REQUEST SUBMITTED BY: ☒ E-MAIL ☐ U.S. MAIL ☐ FAX ☐ IN-PERSON

REQUEST SUBMITTED TO (Agency name & address): Pennsylvania State Police

1800 Elmerton Avenue, Harrisburg, PA 17110

NAME OF REQUESTER : anna p

STREET ADDRESS: Dept MR 71515 411A Highland Ave

CITY/STATE/COUNTY/ZIP(Required): Somerville, MA 02144-2516

TELEPHONE (Optional): _____ EMAIL (optional): 71515-37834014@requests.muckrock.com

RECORDS REQUESTED: **Provide as much specific detail as possible so the agency can identify the information. Please use additional sheets if necessary*

See Attached

DO YOU WANT COPIES? ☒ YES ☐ NO

DO YOU WANT TO INSPECT THE RECORDS? ☐ YES ☒ NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? ☐ YES ☒ NO

DO YOU WANT TO BE NOTIFIED IN ADVANCE IF THE COST EXCEEDS \$100? ☒ YES ☐ NO

**** PLEASE NOTE: RETAIN A COPY OF THIS REQUEST FOR YOUR FILES ****
**** IT IS A REQUIRED DOCUMENT IF YOU WOULD NEED TO FILE AN APPEAL ****

FOR AGENCY USE ONLY

OPEN-RECORDS OFFICER:

☐ I have provided notice to appropriate third parties and given them an opportunity to object to this request

DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5) BUSINESS DAY RESPONSE DUE:

***Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*